

1-1 By: Ellis, et al. S.B. No. 247
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 247 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to prohibiting the investment of state funds in certain
1-11 private business entities doing business in Sudan.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. LEGISLATIVE FINDINGS. (a) On July 23, 2004,
1-14 the United States Congress declared that "the atrocities unfolding
1-15 in Darfur, Sudan, are genocide."

1-16 (b) On September 9, 2004, Secretary of State Colin L. Powell
1-17 told the United States Senate Committee on Foreign Relations that
1-18 "genocide has occurred and may still be occurring in Darfur" and
1-19 "the Government of Sudan and the Janjaweed bear responsibility."

1-20 (c) On September 21, 2004, addressing the United Nations
1-21 General Assembly, President George W. Bush affirmed the secretary
1-22 of state's finding and stated, "At this hour, the world is
1-23 witnessing terrible suffering and horrible crimes in the Darfur
1-24 region of Sudan, crimes my government has concluded are genocide."

1-25 (d) On December 7, 2004, the United States Congress noted
1-26 that the genocidal policy in Darfur has led to reports of
1-27 "systematic rape of thousands of women and girls, the abduction of
1-28 women and children, and the destruction of hundreds of ethnically
1-29 African villages, including the poisoning of their wells and the
1-30 plunder of their crops and cattle upon which the people of such
1-31 villages sustain themselves."

1-32 (e) Also on December 7, 2004, the United States Congress
1-33 found that "the Government of Sudan has restricted access by
1-34 humanitarian and human rights workers to the Darfur area through
1-35 intimidation by military and security forces, and through
1-36 bureaucratic and administrative obstruction, in an attempt to
1-37 inflict the most devastating harm on those individuals displaced
1-38 from their villages and homes without any means of sustenance or
1-39 shelter."

1-40 (f) On September 25, 2006, the United States Congress
1-41 reaffirmed that "the genocide unfolding in the Darfur region of
1-42 Sudan is characterized by acts of terrorism and atrocities directed
1-43 against civilians, including mass murder, rape, and sexual violence
1-44 committed by the Janjaweed and associated militias with the
1-45 complicity and support of the National Congress Party-led faction
1-46 of the Government of Sudan."

1-47 (g) On September 26, 2006, the United States House of
1-48 Representatives stated that "an estimated 300,000 to 400,000 people
1-49 have been killed by the Government of Sudan and its Janjaweed allies
1-50 since the Darfur crisis began in 2003, more than 2,000,000 people
1-51 have been displaced from their homes, and more than 250,000 people
1-52 from Darfur remain in refugee camps in Chad."

1-53 (h) The Darfur crisis represents the first time the United
1-54 States government has labeled ongoing atrocities a genocide.

1-55 (i) The United States government has imposed sanctions
1-56 against the Government of Sudan since 1997. These sanctions are
1-57 monitored through the United States Treasury Department's Office of
1-58 Foreign Assets Control (OFAC).

1-59 (j) According to a former chair of the United States
1-60 Securities and Exchange Commission, "the fact that a foreign
1-61 company is doing material business with a country, government, or
1-62 entity on OFAC's sanctions list is, in the SEC staff's view,
1-63 substantially likely to be significant to a reasonable investor's

2-1 decision about whether to invest in that company."

2-2 (k) Since 1993, the United States secretary of state has
2-3 determined that Sudan is a country the government of which has
2-4 repeatedly provided support for acts of international terrorism,
2-5 thereby incurring restrictions of United States assistance,
2-6 defense exports and sales, and financial and other transactions
2-7 with the Government of Sudan.

2-8 (l) A 2006 United States House of Representatives report
2-9 states that "a company's association with sponsors of terrorism and
2-10 human rights abuses, no matter how large or small, can have a
2-11 materially adverse result on a public company's operations,
2-12 financial condition, earnings, and stock prices, all of which can
2-13 negatively affect the value of an investment."

2-14 (m) In response to the financial risk posed by investments
2-15 in companies doing business with a terrorist-sponsoring state, the
2-16 Securities and Exchange Commission established its Office of Global
2-17 Security Risk to provide for enhanced disclosure of material
2-18 information regarding such companies.

2-19 (n) The current Sudan divestment movement encompasses
2-20 nearly 100 universities, cities, states, and private pension plans.

2-21 (o) Companies facing such widespread divestment present
2-22 further material risk to remaining investors.

2-23 (p) It is a fundamental responsibility of the state to
2-24 decide where, how, and by whom financial resources in its control
2-25 should be invested, taking into account numerous pertinent factors.

2-26 (q) It is the prerogative and desire of the state, in
2-27 respect to investment resources in its control and to the extent
2-28 reasonable, with due consideration for, among other things,
2-29 fiduciary standards imposed by law, on behalf of itself and its
2-30 investment beneficiaries, not to participate in an ownership or
2-31 capital-providing capacity with entities that provide significant
2-32 practical support for genocide, including certain non-United
2-33 States companies presently doing business in Sudan.

2-34 (r) It is the judgment of the legislature that this Act
2-35 should remain in effect only insofar as it continues to be
2-36 consistent with, and does not unduly interfere with, the foreign
2-37 policy of the United States as determined by the United States
2-38 government.

2-39 (s) This Act is not intended to interfere with the
2-40 performance of the fiduciary duties of a manager of funds subject to
2-41 this Act.

2-42 (t) It is the judgment of the legislature that mandatory
2-43 divestment of public funds from certain companies is a measure that
2-44 should be employed sparingly and judiciously. A congressional and
2-45 presidential declaration of genocide satisfies this high
2-46 threshold.

2-47 SECTION 2. Subtitle A, Title 8, Government Code, is amended
2-48 by adding Chapter 806 to read as follows:

2-49 CHAPTER 806. PROHIBITION ON INVESTMENT IN SUDAN

2-50 SUBCHAPTER A. GENERAL PROVISIONS

2-51 Sec. 806.001. DEFINITIONS. In this chapter:

2-52 (1) "Active business operations" means all business
2-53 operations that are not inactive business operations.

2-54 (2) "Business operations" means engaging in commerce
2-55 in any form in Sudan, including by acquiring, developing,
2-56 maintaining, owning, selling, possessing, leasing, or operating
2-57 equipment, facilities, personnel, products, services, personal
2-58 property, real property, or any other apparatus of business or
2-59 commerce.

2-60 (3) "Company" means a sole proprietorship,
2-61 organization, association, corporation, partnership, joint
2-62 venture, limited partnership, limited liability partnership,
2-63 limited liability company, or other entity or business association
2-64 whose securities are publicly traded, including a wholly owned
2-65 subsidiary, majority-owned subsidiary, parent company, or
2-66 affiliate of those entities or business associations, that exists
2-67 to make a profit.

2-68 (4) "Complicit" means taking actions that have
2-69 directly supported or promoted the genocidal campaign in Darfur,

- 3-1 including:
- 3-2 (A) preventing members of Darfur's victimized
- 3-3 population from communicating with each other;
- 3-4 (B) encouraging Sudanese citizens to speak out
- 3-5 against an internationally approved security force for Darfur; or
- 3-6 (C) actively working to deny, cover up, or alter
- 3-7 the record on human rights abuses in Darfur.
- 3-8 (5) "Direct holdings in a company" means all
- 3-9 securities of that company held directly by a state governmental
- 3-10 entity in an account or fund in which a state governmental entity
- 3-11 owns all shares or interests.
- 3-12 (6) "Government of Sudan" means the government in
- 3-13 Khartoum, Sudan, which is led by the National Congress Party,
- 3-14 formerly known as the National Islamic Front, or any successor
- 3-15 government formed on or after October 13, 2006, including the
- 3-16 coalition National Unity Government agreed upon in the
- 3-17 Comprehensive Peace Agreement for Sudan. The term does not include
- 3-18 the regional government of southern Sudan.
- 3-19 (7) "Inactive business operations" means the mere
- 3-20 continued holding or renewal of rights to property previously
- 3-21 operated to generate revenue but not presently deployed to generate
- 3-22 revenue.
- 3-23 (8) "Indirect holdings in a company" means all
- 3-24 securities of that company held in an account or fund, such as a
- 3-25 mutual fund, managed by one or more persons not employed by a state
- 3-26 governmental entity, in which the state governmental entity owns
- 3-27 shares or interests together with other investors not subject to
- 3-28 this chapter. The term does not include money invested under a plan
- 3-29 described by Section 401(k) or 457 of the Internal Revenue Code of
- 3-30 1986.
- 3-31 (9) "Listed company" means a company listed by the
- 3-32 comptroller under Section 806.051.
- 3-33 (10) "Marginalized populations of Sudan" includes:
- 3-34 (A) the portion of the population in the Darfur
- 3-35 region that has been genocidally victimized;
- 3-36 (B) the portion of the population of southern
- 3-37 Sudan victimized by Sudan's North-South civil war;
- 3-38 (C) the Beja, Rashidiya, and other similarly
- 3-39 underserved groups of eastern Sudan;
- 3-40 (D) the Nubian and other similarly underserved
- 3-41 groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain
- 3-42 regions; and
- 3-43 (E) the Amri, Hamadab, Manasir, and other
- 3-44 similarly underserved groups of northern Sudan.
- 3-45 (11) "Military equipment" means weapons, arms,
- 3-46 military supplies, and equipment that readily may be used for
- 3-47 military purposes, including radar systems or military-grade
- 3-48 transport vehicles or supplies or services sold or provided
- 3-49 directly or indirectly to any force actively participating in armed
- 3-50 conflict in Sudan.
- 3-51 (12) "Mineral extraction activities" includes
- 3-52 exploring, extracting, processing, transporting, or wholesale
- 3-53 selling or trading of elemental minerals or associated metal alloys
- 3-54 or oxides (ore), including gold, copper, chromium, chromite,
- 3-55 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as
- 3-56 well as facilitating those activities, including by providing
- 3-57 supplies or services in support of those activities.
- 3-58 (13) "Oil-related activities" includes:
- 3-59 (A) owning rights to oil blocks;
- 3-60 (B) exporting, extracting, producing, refining,
- 3-61 processing, exploring for, transporting, selling, or trading of
- 3-62 oil;
- 3-63 (C) constructing, maintaining, or operating a
- 3-64 pipeline, refinery, or other oil-field infrastructure; or
- 3-65 (D) facilitating oil-related activities,
- 3-66 including by providing supplies or services in support of the
- 3-67 activities, except that the mere retail sale of gasoline and
- 3-68 related consumer products is not an oil-related activity.
- 3-69 (14) "Power production activities" means any business

4-1 operation that involves a project commissioned by the National
 4-2 Electricity Corporation of Sudan or another similar Government of
 4-3 Sudan entity whose purpose is to facilitate power generation and
 4-4 delivery, including establishing power-generating plants or
 4-5 hydroelectric dams, selling or installing components for the
 4-6 project, and providing service contracts related to the
 4-7 installation or maintenance of the project, as well as facilitating
 4-8 those activities, including by providing supplies or services in
 4-9 support of those activities.

4-10 (15) "Scrutinized company" means a company that:

4-11 (A) engages in scrutinized business operations
 4-12 described by Section 806.002; or

4-13 (B) has been complicit in the Darfur genocide
 4-14 during any preceding 20-month period.

4-15 (16) "Social development company" means a company
 4-16 whose primary purpose in Sudan is to provide humanitarian goods or
 4-17 services, including medicine or medical equipment, agricultural
 4-18 supplies or infrastructure, educational opportunities,
 4-19 journalism-related activities, information or information
 4-20 materials, spiritual-related activities, services of a purely
 4-21 clerical or reporting nature, food, clothing, or general consumer
 4-22 goods that are unrelated to oil-related activities, mineral
 4-23 extraction activities, or power production activities.

4-24 (17) "State governmental entity" means the Employees
 4-25 Retirement System of Texas or the Teacher Retirement System of
 4-26 Texas.

4-27 (18) "Substantial action" means adopting,
 4-28 publicizing, and implementing a formal plan to cease scrutinized
 4-29 business operations within one year and to refrain from any such new
 4-30 business operations, undertaking significant humanitarian efforts
 4-31 on behalf of one or more marginalized populations of Sudan, or,
 4-32 through engagement with the Government of Sudan, materially
 4-33 improving conditions for the genocidally victimized population in
 4-34 Darfur.

4-35 Sec. 806.002. SCRUTINIZED BUSINESS OPERATIONS. A company
 4-36 engages in scrutinized business operations if:

4-37 (1) the company has business operations that involve
 4-38 contracts with or providing supplies or services to the Government
 4-39 of Sudan, a company in which the Government of Sudan has any direct
 4-40 or indirect equity share, a Government of Sudan-commissioned
 4-41 consortium or project, or a company involved in a Government of
 4-42 Sudan-commissioned consortium or project, and:

4-43 (A) more than 10 percent of the company's
 4-44 revenues or assets linked to Sudan involve oil-related activities
 4-45 or mineral extraction activities, less than 75 percent of the
 4-46 company's revenue or assets linked to Sudan involve contracts with
 4-47 or provision of oil-related or mineral extracting products or
 4-48 services to the regional government of southern Sudan or a project
 4-49 or consortium created exclusively by that regional government, and
 4-50 the company has failed to take substantial action; or

4-51 (B) more than 10 percent of the company's revenue
 4-52 or assets linked to Sudan involve power production activities, less
 4-53 than 75 percent of the company's power production activities
 4-54 include projects whose intent is to provide power or electricity to
 4-55 the marginalized populations of Sudan, and the company has failed
 4-56 to take substantial action; or

4-57 (2) the company supplies military equipment in Sudan,
 4-58 unless:

4-59 (A) the company clearly shows that the military
 4-60 equipment cannot be used to facilitate offensive military actions
 4-61 in Sudan; or

4-62 (B) the company implements rigorous and
 4-63 verifiable safeguards to prevent use of that equipment by forces
 4-64 actively participating in armed conflict, including:

4-65 (i) using post-sale tracking of the
 4-66 equipment by the company;

4-67 (ii) obtaining certification from a
 4-68 reputable and objective third party that the equipment is not being
 4-69 used by a party participating in armed conflict in Sudan; or

5-1 (iii) selling the equipment solely to the
 5-2 regional government of southern Sudan or any internationally
 5-3 recognized peacekeeping force or humanitarian organization.

5-4 Sec. 806.003. SOCIAL DEVELOPMENT COMPANY. Notwithstanding
 5-5 any other law, a social development company that is not complicit in
 5-6 the Darfur genocide is not a scrutinized company.

5-7 Sec. 806.004. EXCEPTION. Notwithstanding any other law, a
 5-8 company that the United States government affirmatively declares to
 5-9 be excluded from its federal sanctions regime relating to Sudan is
 5-10 not subject to divestment or investment prohibition under this
 5-11 chapter.

5-12 Sec. 806.005. OTHER LEGAL OBLIGATIONS. With respect to
 5-13 actions taken in compliance with this chapter, including all good
 5-14 faith determinations regarding companies as required by this
 5-15 chapter, a state governmental entity is exempt from any conflicting
 5-16 statutory or common law obligations, including any obligations with
 5-17 respect to making investments, divesting from any investment,
 5-18 preparing or maintaining any list of companies, or choosing asset
 5-19 managers, investment funds, or investments for the state
 5-20 governmental entity's securities portfolios.

5-21 Sec. 806.006. INDEMNIFICATION OF STATE GOVERNMENTAL
 5-22 ENTITIES, EMPLOYEES, AND OTHERS. In a cause of action based on an
 5-23 action, inaction, decision, divestment, investment, company
 5-24 communication, report, or other determination made or taken in
 5-25 connection with this chapter, the state shall, without regard to
 5-26 whether the person performed services for compensation, indemnify
 5-27 and hold harmless for actual damages, court costs, and attorney's
 5-28 fees adjudged against, and defend:

5-29 (1) an employee, a member of the governing body, or any
 5-30 other officer of a state governmental entity;

5-31 (2) a contractor of a state governmental entity;

5-32 (3) a former employee, former member of the governing
 5-33 body, or any other former officer of a state governmental entity who
 5-34 was an employee or officer when the act or omission on which the
 5-35 damages are based occurred; and

5-36 (4) a former contractor of a state governmental entity
 5-37 who was a contractor when the act or omission on which the damages
 5-38 are based occurred.

5-39 Sec. 806.007. NO PRIVATE CAUSE OF ACTION. (a) A person,
 5-40 including a member, retiree, and beneficiary of a retirement system
 5-41 to which this chapter applies, an association, a research firm, a
 5-42 company, or any other person may not sue or pursue a private cause
 5-43 of action against the state, a state governmental entity, an
 5-44 employee, a member of the governing body, or any other officer of a
 5-45 state governmental entity, or a contractor of a state governmental
 5-46 entity, for any claim or cause of action, including breach of
 5-47 fiduciary duty, or for violation of any constitutional, statutory,
 5-48 or regulatory requirement in connection with any action, inaction,
 5-49 decision, divestment, investment, company communication, report,
 5-50 or other determination made or taken in connection with this
 5-51 chapter.

5-52 (b) A person who files suit against the state, a state
 5-53 governmental entity, an employee, a member of the governing body,
 5-54 or any other officer of a state governmental entity, or a contractor
 5-55 of a state governmental entity, is liable for paying the costs and
 5-56 attorney's fees of a person sued in violation of this section.

5-57 [Sections 806.008-806.050 reserved for expansion]

5-58 SUBCHAPTER B. DUTIES REGARDING INVESTMENTS

5-59 Sec. 806.051. LISTED COMPANIES. (a) The comptroller shall
 5-60 prepare and maintain, and provide to each state governmental
 5-61 entity, a list of all scrutinized companies. In maintaining the
 5-62 list of scrutinized companies, the comptroller may review and rely,
 5-63 as appropriate in the comptroller's judgment, on publicly available
 5-64 information regarding companies with business operations in Sudan,
 5-65 including information provided by the state, nonprofit
 5-66 organizations, research firms, international organizations, and
 5-67 governmental entities.

5-68 (b) The comptroller shall update the list of scrutinized
 5-69 companies annually or more often as the comptroller considers

6-1 necessary, but not more often than quarterly, based on information
6-2 from, among other sources, those listed in Subsection (a).

6-3 (c) Not later than the 30th day after the date the list of
6-4 scrutinized companies is first provided or updated, the comptroller
6-5 shall file the list of scrutinized companies with the presiding
6-6 officer of each house of the legislature and the attorney general.

6-7 Sec. 806.052. IDENTIFICATION OF INVESTMENT IN LISTED
6-8 COMPANIES. Not later than the 14th day after the date a state
6-9 governmental entity receives the list provided under Section
6-10 806.051(c), the state governmental entity shall notify the
6-11 comptroller of the listed companies in which the state governmental
6-12 entity owns direct or indirect holdings.

6-13 Sec. 806.053. NOTICE TO LISTED COMPANY ENGAGED IN INACTIVE
6-14 BUSINESS OPERATIONS. For each listed company identified under
6-15 Section 806.052 that is engaged in only inactive scrutinized
6-16 business operations, the state governmental entity shall send a
6-17 written notice informing the company of this chapter and
6-18 encouraging the company to continue to refrain from initiating
6-19 active business operations in Sudan until it is able to avoid being
6-20 considered a listed company. The state governmental entity shall
6-21 continue the correspondence as the entity considers necessary, but
6-22 is not required to initiate correspondence more often than
6-23 semiannually.

6-24 Sec. 806.054. ACTIONS RELATING TO LISTED COMPANY ENGAGED IN
6-25 ACTIVE BUSINESS OPERATIONS. (a) For each listed company
6-26 identified under Section 806.052 that is engaged in scrutinized
6-27 active business operations, the state governmental entity shall
6-28 send a written notice informing the company of its listed company
6-29 status and warning the company that it may become subject to
6-30 divestment by state governmental entities.

6-31 (b) The notice shall offer the company the opportunity to
6-32 clarify its Sudan-related activities and shall encourage the
6-33 company, not later than the 90th day after the date the company
6-34 receives notice under this section, to either cease its scrutinized
6-35 business operations or convert such operations to inactive business
6-36 operations in order to avoid qualifying for divestment by state
6-37 governmental entities.

6-38 (c) If, during the time provided by Subsection (b), the
6-39 company ceases scrutinized business operations, the comptroller
6-40 shall remove the company from the list of scrutinized companies and
6-41 this chapter will no longer apply to the company unless it resumes
6-42 scrutinized business operations.

6-43 (d) If, during the time provided by Subsection (b), the
6-44 company converts its scrutinized active business operations to
6-45 inactive business operations, the company is subject to all
6-46 provisions of this chapter relating to inactive business
6-47 operations.

6-48 (e) If, after the time provided by Subsection (b) expires,
6-49 the listed company continues to have scrutinized active business
6-50 operations, the state governmental entity shall sell, redeem,
6-51 divest, or withdraw all publicly traded securities of the company,
6-52 except securities described by Section 806.057, according to the
6-53 schedule provided by Section 806.056.

6-54 Sec. 806.055. ACTIONS RELATING TO LISTED COMPANY COMPLICIT
6-55 IN GENOCIDE. (a) For each company identified under Section
6-56 806.052 that has been complicit, the state governmental entity
6-57 shall send a written notice informing the company of its listed
6-58 company status and warning the company that it may become subject to
6-59 divestment by the state governmental entity.

6-60 (b) The notice must require the listed company to refrain
6-61 from taking any further action that would make it complicit.

6-62 (c) If, after receiving the notice under Subsection (a), the
6-63 listed company takes additional action that makes the company
6-64 complicit, the state governmental entity shall sell, redeem,
6-65 divest, or withdraw all publicly traded securities of the company,
6-66 except securities described by Section 806.057, according to the
6-67 schedule provided by Section 806.056.

6-68 Sec. 806.056. DIVESTMENT OF ASSETS. (a) A state
6-69 governmental entity required to sell, redeem, divest, or withdraw

7-1 all publicly traded securities of a listed company shall comply
 7-2 with the following schedule:

7-3 (1) at least 50 percent of those assets shall be
 7-4 removed from the state governmental entity's assets under
 7-5 management not later than the 270th day after the date the company
 7-6 receives notice under Section 806.054 or 806.055 or Subsection (b);
 7-7 and

7-8 (2) 100 percent of those assets shall be removed from
 7-9 the state governmental entity's assets under management not later
 7-10 than the 450th day after the date the company receives notice under
 7-11 Section 806.054 or 806.055 or Subsection (b).

7-12 (b) If a company that ceased scrutinized active business
 7-13 operations after receiving notice under Section 806.054 resumes
 7-14 scrutinized active business operations, the state governmental
 7-15 entity shall send a written notice to the company informing it that
 7-16 the state governmental entity will sell, redeem, divest, or
 7-17 withdraw all publicly traded securities of the scrutinized company
 7-18 according to the schedule in Subsection (a).

7-19 (c) A state governmental entity may delay the schedule for
 7-20 divestment under Subsection (a) only to the extent that the state
 7-21 governmental entity determines, in the state governmental entity's
 7-22 good faith judgment, that divestment from listed companies will
 7-23 likely result in a loss in value described by Section 806.058(a).
 7-24 If a state governmental entity delays the schedule for divestment,
 7-25 the state governmental entity shall submit a report to the
 7-26 presiding officer of each house of the legislature and the attorney
 7-27 general stating the reasons and justification for the state
 7-28 governmental entity's delay in divestment from listed companies.
 7-29 The report must include documentation supporting its determination
 7-30 that the divestment would result in a loss in value described by
 7-31 Section 806.058(a), including objective numerical estimates. The
 7-32 state governmental entity shall update the report every six months.

7-33 Sec. 806.057. INVESTMENTS EXEMPTED FROM DIVESTMENT. A
 7-34 state governmental entity is not required to divest from any
 7-35 indirect holdings in actively managed investment funds or private
 7-36 equity funds. The state governmental entity shall submit letters
 7-37 to the managers of investment funds containing listed companies
 7-38 requesting that they consider removing those companies from the
 7-39 fund or create a similar actively managed fund with indirect
 7-40 holdings devoid of listed companies. If the manager creates a
 7-41 similar fund with substantially the same management fees and same
 7-42 level of investment risk, the state governmental entity shall
 7-43 replace all applicable investments with investments in the similar
 7-44 fund in an expedited time frame consistent with prudent fiduciary
 7-45 standards.

7-46 Sec. 806.058. AUTHORIZED INVESTMENT IN LISTED COMPANIES.
 7-47 (a) A state governmental entity may cease divesting from or may
 7-48 reinvest in one or more listed companies if clear and convincing
 7-49 evidence shows that the value for all assets under management by the
 7-50 state governmental entity becomes equal to or less than 99.7
 7-51 percent of the hypothetical value of all assets under management by
 7-52 the state governmental entity had the state governmental entity not
 7-53 divested from listed companies under this chapter.

7-54 (b) A state governmental entity may invest in a listed
 7-55 company as provided by this section only to the extent necessary to
 7-56 ensure that the value of the assets managed by the state
 7-57 governmental entity does not fall below the value described by
 7-58 Subsection (a).

7-59 (c) Before a state governmental entity may invest in a
 7-60 listed company under this section, the state governmental entity
 7-61 must provide a written report to the presiding officer of each house
 7-62 of the legislature and the attorney general setting forth the
 7-63 reason and justification, supported by clear and convincing
 7-64 evidence, for its decisions to cease divestment, to reinvest, or to
 7-65 remain invested in a listed company.

7-66 (d) The state governmental entity shall update the report
 7-67 required by Subsection (c) semiannually, as applicable.

7-68 (e) This section does not apply to reinvestment in a company
 7-69 that has ceased to be a listed company.

8-1 Sec. 806.059. PROHIBITED INVESTMENTS. Except as provided
8-2 by Sections 806.004 and 806.058, a state governmental entity may
8-3 not acquire securities of a listed company.

8-4 [Sections 806.060-806.100 reserved for expansion]

8-5 SUBCHAPTER C. EXPIRATION; REPORT; ENFORCEMENT

8-6 Sec. 806.101. EXPIRATION OF CHAPTER. This chapter expires
8-7 on the earliest of:

8-8 (1) the date on which the United States Congress or the
8-9 president of the United States declares that the Darfur genocide
8-10 has been halted for at least 12 months;

8-11 (2) the date on which the United States revokes its
8-12 sanctions against the Government of Sudan; or

8-13 (3) the date on which the United States Congress or the
8-14 president of the United States, through legislation or executive
8-15 order, declares that mandatory divestment of the type provided for
8-16 in this chapter interferes with the conduct of United States
8-17 foreign policy.

8-18 Sec. 806.102. REPORT. Not later than December 31 of each
8-19 year, each state governmental entity shall file a publicly
8-20 available report with the presiding officer of each house of the
8-21 legislature, the attorney general, and the United States
8-22 presidential special envoy to Sudan that:

8-23 (1) identifies all investments sold, redeemed,
8-24 divested, or withdrawn in compliance with Section 806.056;

8-25 (2) identifies all prohibited investments under
8-26 Section 806.059; and

8-27 (3) summarizes any changes made under Section 806.057.

8-28 Sec. 806.103. ENFORCEMENT. The attorney general may bring
8-29 any action necessary to enforce this chapter.

8-30 SECTION 3. Not later than January 1, 2008, the comptroller
8-31 of public accounts shall prepare and provide to each state
8-32 governmental entity, as defined by Section 806.001, Government
8-33 Code, as added by this Act, the list of scrutinized companies
8-34 required by Section 806.051, Government Code, as added by this Act.

8-35 SECTION 4. This Act takes effect January 1, 2008.

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